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# ANTI-CORRUPTION RELOADED

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Southeast Europe Leadership for Development and Integrity (SELDI) is an anti-corruption and good governance initiative created by CSOs from Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Kosovo, Macedonia, Montenegro, Serbia and Turkey. SELDI contributes to a dynamic civil society in the region, capable of participating in public debate and influencing policy and decision-making process in the area of anti-corruption and governance. The initiative established a coalition for the development and endorsement of a regional CSO strategy and action agenda and carries out good governance monitoring. SELDI raises public awareness and advocates reformist policies through Regional Good Governance and Anti-Corruption Policy Forums.

This report provides a civil society view of the state of corruption and anticorruption in Southeast Europe. It has been prepared by the SELDI Secretariat (Center for the Study of Democracy) after extensive consultation with SELDI partners, and is based on nine national Corruption Assessment Reports. The report also reflects findings of the *Corruption Monitoring System (CMS)* in the SELDI countries. Dr. Alexander Stoyanov and Alexander Gerganov from Vitosha Research, Bulgaria, have provided the methodological guidance and coordination of the CMS implementation. SELDI would like to acknowledge the comments to the drafts of the report contributed by Mr. Alain Servantie, Member, SELDI Advisory Board, Ms Sabine Zwaenepoel, Senior Rule of Law Co-ordinator, European Commission, and Mr. Florian Fichtl, former World Bank Officer in Bulgaria and Turkey. SELDI would like to thank the numerous national public anticorruption organizations from the region, which have provided comments to the national Corruption Assessment Reports.

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Corruption Assessment...

Anti Corruption Assessment...

Best-practice-manual-civil...

3.1 Prevention of Corruption in...

transparency International...

Democrat and Taleski (2013

Executive Summary.....

Introduction.....

1. Corruption Levels in Southeast Europe.....

1.1. CMS methodology .....

1.2. Experience with corruption.....

1.3. Attitudes towards corruption.....

1.4. Assessments of the corruption environment.....

2. Anticorruption Policies and Regulatory Environment.....

2.1. National anticorruption strategies .....

2.2. Assessment of the regulatory environment for anticorrupti

2.2.1. Changes to national anticorruption policies.....

2.2.2. Specialised anticorruption laws.....

2.2.3. Other relevant legislation .....

2.3. Recommendations.....

3. Institutional Practice and Enforcement of the Law .....

3.1. Specialised anticorruption institutions .....

3.2. Legislature and party funding .....

3.3. National audit institutions.....

3.4. Integrity of the civil service.....

3.5. Law enforcement.....

3.6. Recommendations.....

4. The Judiciary in Anticorruption.....

4.1. Governance of the judiciary .....

4.2. Integrity and accountability .....

4.3. Specialised anticorruption courts .....

4.4. Recommendations.....

5. Corruption and the Economy .....

5.1. Business environment and informal economy.....

5.2. Government budget and redistribution.....

Títulos relacionados

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Anti Corruption Assessment...

Best-practice-manual-civil...

3.1 Prevention of Corruption in...

Transparency International...

Demmer and Taleski (2013)

6.1. NGOs in the SELDI area: sectoral highlights.....

6.2. Some anticorruption initiatives .....

6.3. Governments and NGOs: foes or friends? .....

6.4. Integrity of non-profit governance .....

6.5. Recommendations.....

7. International Cooperation .....

7.1. Compliance with international anticorruption standards.....

7.2. Foreign assistance .....

7.3. Recommendations.....

Methodological Appendix: Corruption Monitoring System.....

Annex: Executive Summary in SELDI National Languages.....

Bibliography .....

Títulos relacionados

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Overall, with the exception of Bulgaria, the changes since previous SELDI rounds of CMS diagnostics (2001 and 2002) for all countries are positive. However, they are not considered satisfactory by governments, the business sector and citizens. Progress has been slow and uneven.

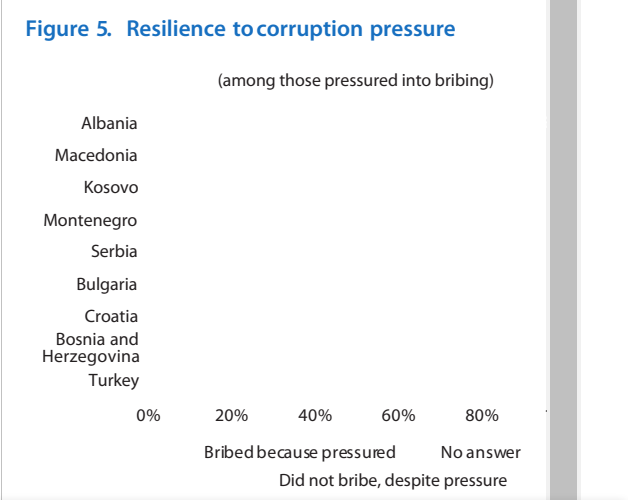
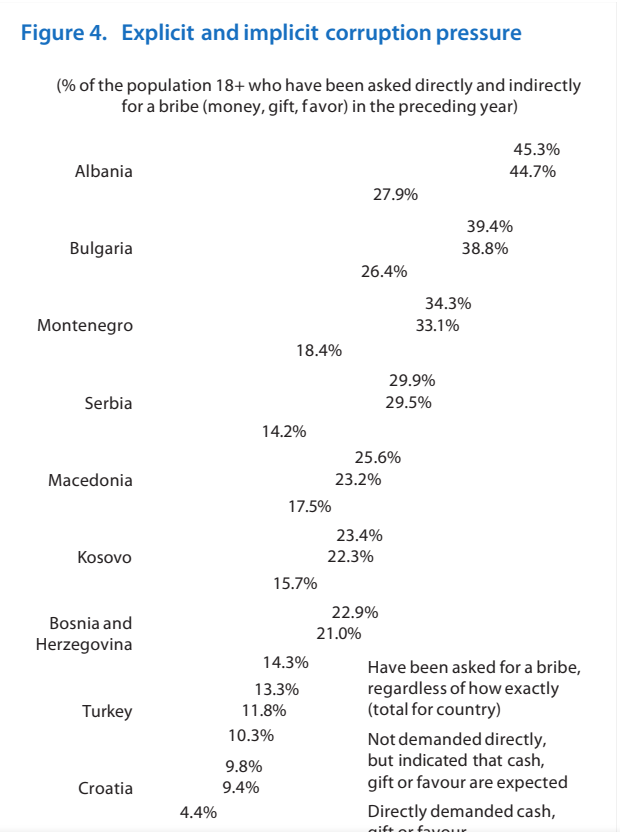
The two components of corruption pressure – percentage of the population who were asked directly for a bribe and the percentage who were not asked directly, but the officials managed to show they expected to receive a bribe are shown on Figure 4.<sup>13</sup> It is not surprising that most often the officials ask for a bribe indirectly, indicating that they expect it without asking explicitly. Still, in a lot of the cases this is done directly (explicitly) which comes to show that bribery is considered more or less a normal scenario.

The highest levels of explicit pressure have been observed in Albania (28%) and Bulgaria (26%). In Montenegro and Serbia the pressure is more often

implicit, while explicit pressure is not so common. Another country where the explicit pressure is as high as the implicit is Turkey, where 12% of reported cases of implicit pressure and 10% reported cases were asked explicitly.

Corruption pressure is the main factor that statistically influences the level of involvement. Still, pressure does not necessarily mean that a citizen would give a bribe. The share of respondents who experienced pressure but did not give a bribe is presented in Figure 5. Most of the countries with high corruption involvement and pressure are also characterised by low resilience to corruption pressure (most of the respondents who were asked for a bribe gave one). There are, however, some exceptions, most notably Bulgaria which is the top three countries in terms of corruption pressure and actual transactions, but in terms of resilience to corruption pressure together with less corrupted countries like Croatia and BiH. Macedonia rises to second rank in terms of respondents who yield to pressure. The high resilience in Turkey explains why actual corruption transactions are less common than even in Croatia, regardless of the higher pressure (13.3% pressure in Turkey, only 9.8% in Croatia).

Data also show that resilience to pressure is substantially higher in less corrupt environments (e.g. Turkey compared to Albania). However, this does not make resilience a factor to reduce corruption; rather it is the overall atmosphere in society.





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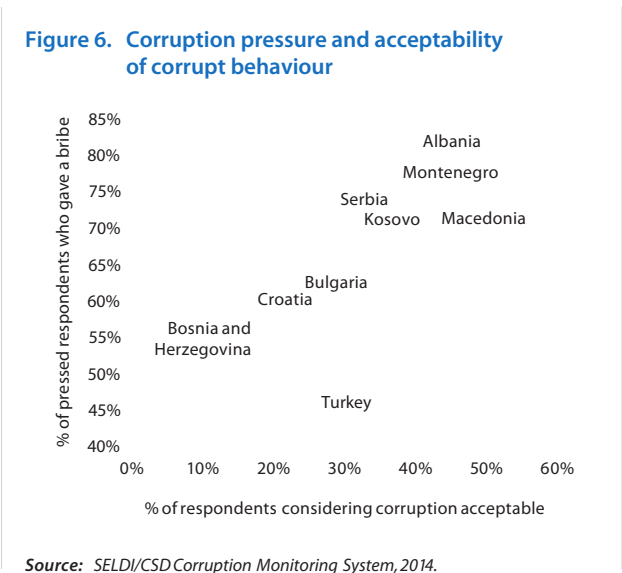
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Transparency International...

Democracy and Taleski (2013)

possible explanation – the lower the acceptability of corruption as part of the environment, the higher resilience would be. In other words, if more people think that corruption is acceptable, more of the citizens pressed for bribes are likely to yield and be involved in actual corruption transactions (Figure 6).

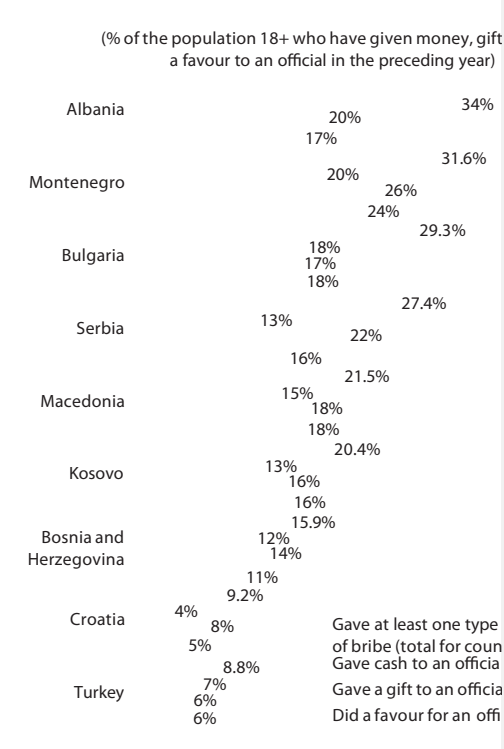


Cross-country comparisons show that there are some major differences between the countries in terms of the most common means of bribery (Figure 7).<sup>14</sup>

While in Albania money is by far the most often used means of bribery (34% compared to 20% giving gifts and 17% doing favours), in most of the SELDI countries gifts are given more often than money – Montenegro (26% gave gifts, 20% gave money), Serbia (22% gave gifts, 13% gave money), Kosovo (16% gave gifts, 13% gave money), Croatia (8% gave gifts, only 4% gave money). Other countries like Bulgaria and Turkey are characterised by relatively similar shares of respondents who gave money, gifts, or did favours.

In some cases transactions are admittedly initiated by citizens themselves: they were not pressed by the public officials (neither explicitly, nor implicitly), but still gave a bribe (money, gift or a favour). Such active involvement is most common in Bulgaria (5.5%) and Montenegro (5.1% of the population), but – interestingly – also present in the low corruption

Figure 7. Involvement in corruption – types of bribe



dealing with public officials are probably a combination of various factors such as:

- corruptness of the environment (if even considered corrupt, people might try to do it without pressure);
- levels of corruption pressure (if the pressure is declining very fast, the citizens might try to do the transaction themselves in particular if they have already done or asked for something undue);
- effectiveness of law enforcement (if law enforcement is effective or the punishment is very severe, citizens might avoid offering bribes themselves, which is an indication that these bribes are expected and will be accepted by the official).

The full distribution of experiences with corruption pressure and reaction to it are presented in Figure 8 and Figure 9. Missing information (no answer or refusals to answer) are informative as well, and the percentage of such answers (as in Kosovo or in

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Figure 8. Involvement in corruption with or without corruption pressure

(% of the population 18+, who have given a bribe with or without corruption pressure)

Country	Gave without corruption pressure	Gave with corruption pressure	No answer
Albania	1%	37%	62%
Montenegro	5%	26%	69%
Bulgaria	6%	24%	70%
Serbia	4%	22%	74%
Macedonia	2%	19%	79%
Kosovo	2%	17%	81%
Bosnia and Herzegovina	1%	13%	86%
Croatia	3%	6%	91%
Turkey	3%	6%	91%

Source: SELDI/CSD Corruption Monitoring System, 2014.

Figure 9. Corruption activities and pressure – citizens' involvement in corruption transactions

Country	No corruption activities and pressure	Active bribery (Gave a bribe without pressure)	Passive bribery (Gave with pressure)	Resilience to corruption (Didn't give, despite being pressed)	Avoiding the question (No answer)
Turkey	5.9%	7.1%	7.5%	22.0%	55.5%
Serbia	2.0%	7.4%	7.5%	22.0%	60.1%
Montenegro	2.0%	7.4%	7.5%	22.0%	60.1%
Macedonia	1.0%	7.4%	7.5%	22.0%	68.1%
Kosovo	1.0%	7.4%	7.5%	22.0%	68.1%
Croatia	1.0%	7.4%	7.5%	22.0%	68.1%
Bulgaria	1.0%	7.4%	7.5%	22.0%	68.1%
Bosnia and Herzegovina	1.0%	7.4%	7.5%	22.0%	68.1%
Albania	1.0%	7.4%	7.5%	22.0%	68.1%

Source: SELDI/CSD Corruption Monitoring System, 2014.

Figure 10. Acceptability of corruption

(% of the population 18+, who accept different forms of corrupt behavior)

Country	Acceptability (%)
Albania	47%
Montenegro	45%
Macedonia	42%
Kosovo	38%
Serbia	32%
Turkey	30%
Bulgaria	23%
Croatia	19%
Bosnia and Herzegovina	19%

Source: SELDI/CSD Corruption Monitoring System, 2014.

Figure 11. Awareness (identification) of common corruption practices

(% of the population 18+ identifying common corruption practices as all (high), many (moderate) and few (low))

Country	Awareness (%)
Bosnia and Herzegovina	10%
Croatia	17%
Serbia	21%
Bulgaria	27%
Montenegro	30%
Albania	34%
Turkey	27%

### 1.3. ATTITUDES TOWARDS CORRUPTION

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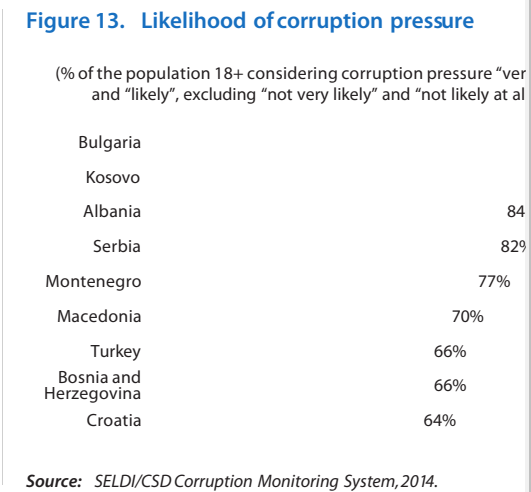
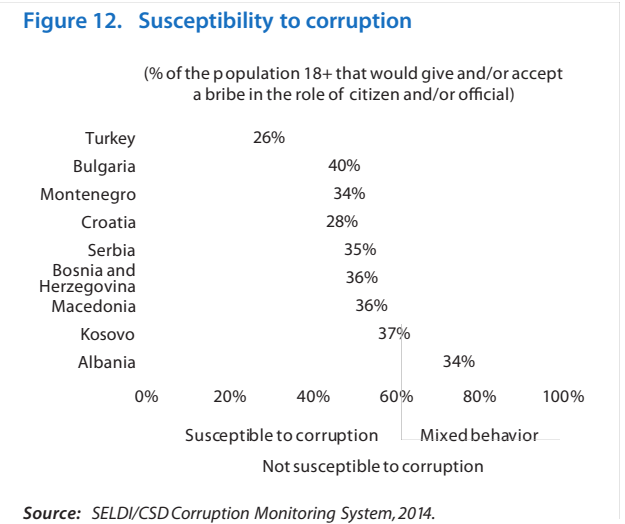
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regarding susceptibility to corruption the CIVS data show that citizens in countries with similar rates of administrative corruption have substantially different structure of predisposition to corruption behaviour (e.g. Croatia and Turkey). The highest susceptibility is observed in Albania, followed by Kosovo and Macedonia. The relatively lower susceptibility in Bulgaria for example (lowest after Turkey) indicates (together with low acceptability) the integrity of the citizens which could explain why a large share of citizens who were pressed for bribes did not give any in these countries. A factor in this respect, especially regarding Bulgaria, is the role of civil society: the most intensive anticorruption campaign started in 1998 and was implemented by CSD-led *Coalition 2000*.<sup>15</sup> Still, the very high corruption pressure in Bulgaria, combined with the low tolerance and susceptibility to corruption, seems the most probable explanation for the highest share of mixed behaviour among the SELDI countries. People get forced to compromise on their principles by an overwhelmingly corrupt environment. At the same time, countries like Albania and Kosovo face steep challenges in their anticorruption drive, as high administrative corruption is coupled with lower levels of awareness and higher levels of acceptance.

## THE CORRUPTION ENVIRONMENT

Assessments of the corruption environment (assessments of corruption) are not a good proxy for measuring the prevalence of corrupt practices and the corruption. Rather they show the attitude of citizens towards the governance model and are a form of evaluation of the current government. This explains why assessments of the corruption environment in a given country are usually much more negative and widespread than the actual count of corruption transactions.

More than half of the population of SELDI countries believe they live in a highly corrupt environment in which it is highly likely to encounter corruption pressure when contacting public officials (Figure 13). The highest percentage of the expected corruption pressure is found in Bulgaria and Kosovo, where more than 90% of the participants in the survey consider corruption pressure to be likely. The smallest percent is in Croatia but even there 2/3 of the population (64%) consider corruption pressure to be likely. This shows that corruption is perceived as a serious problem in the whole region despite the relatively lower levels of prevalence in Turkey, Croatia and Bosnia and Herzegovina.



Nearly three quarters of the population in (73%) consider corruption inevitable and

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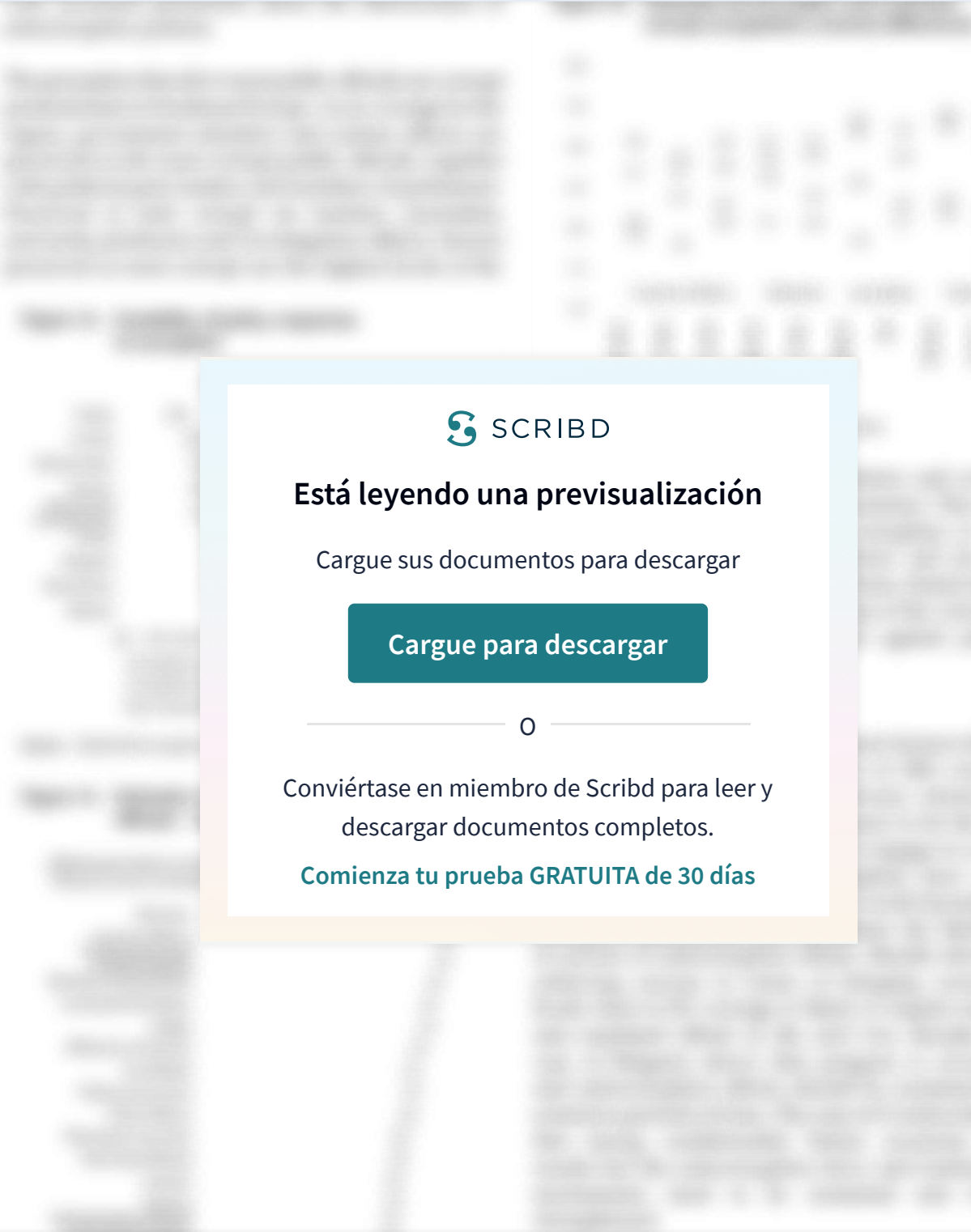
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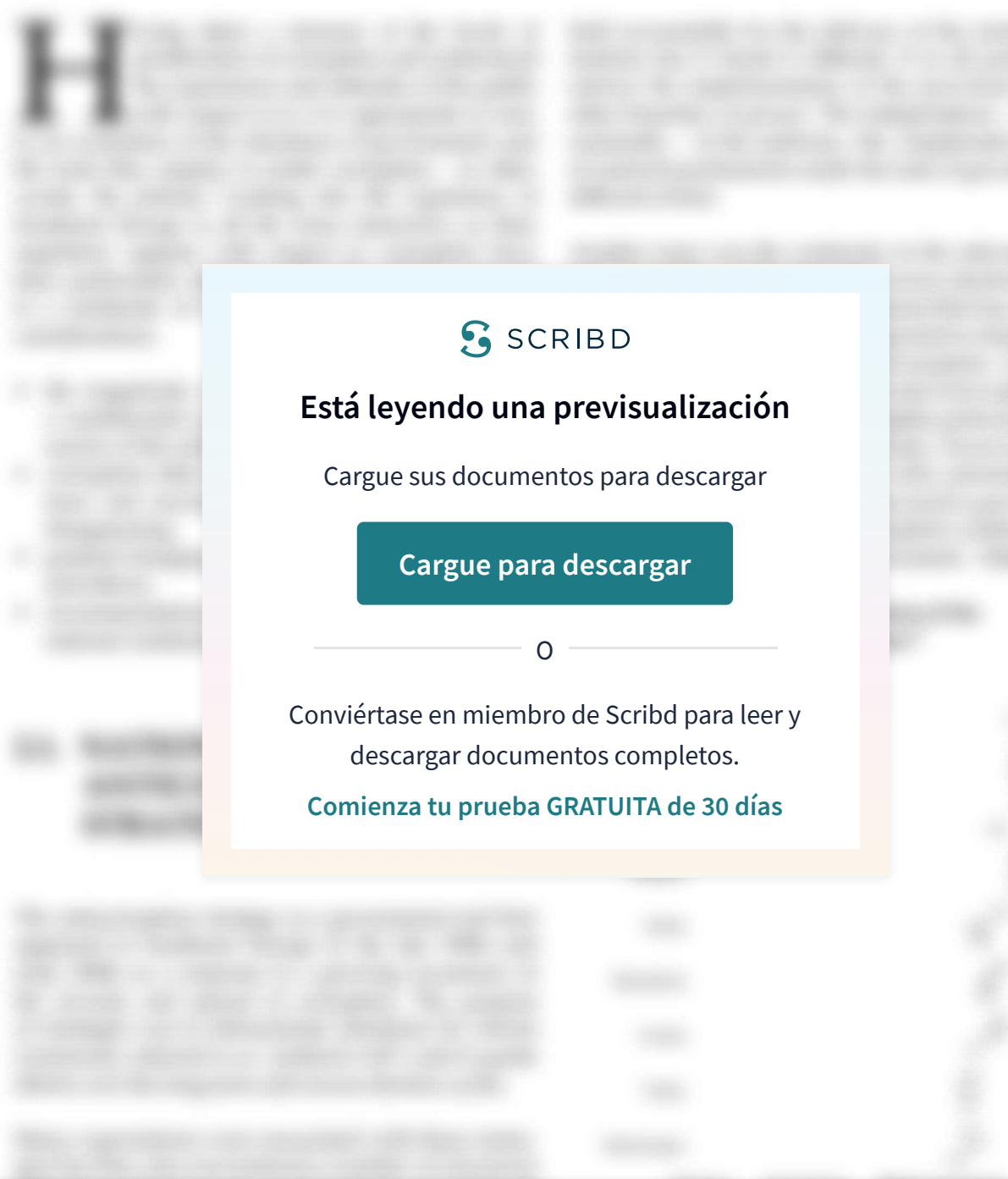
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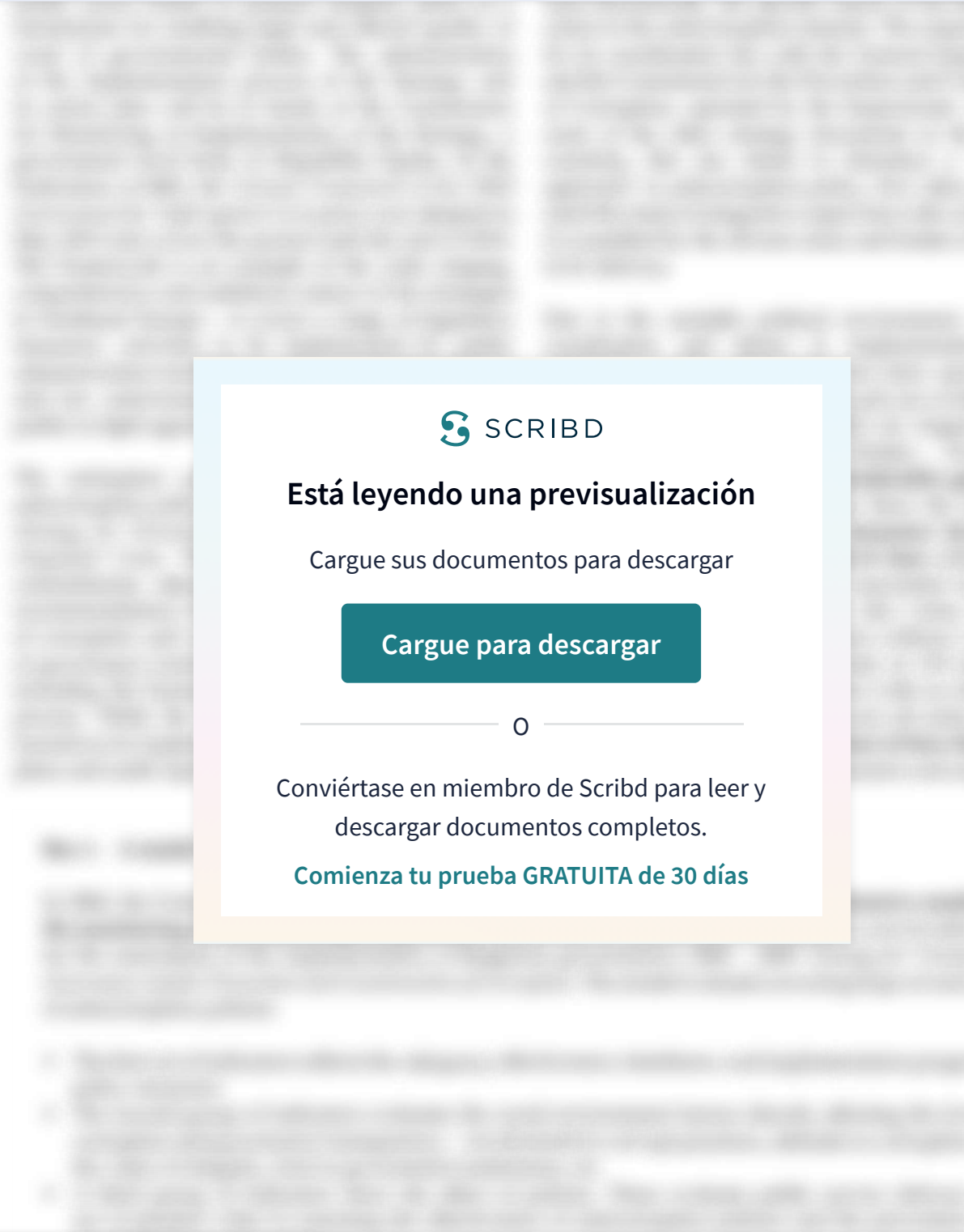
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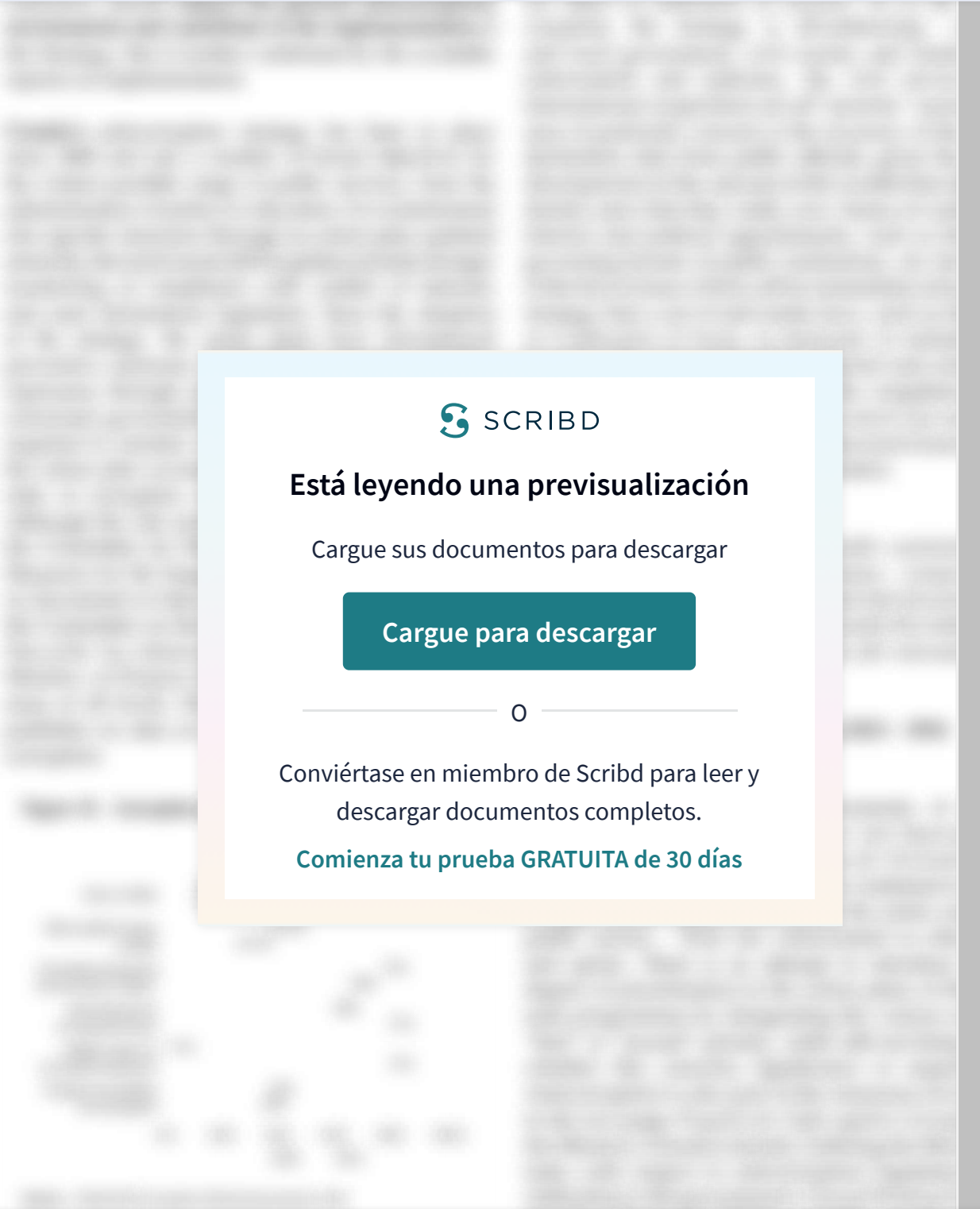
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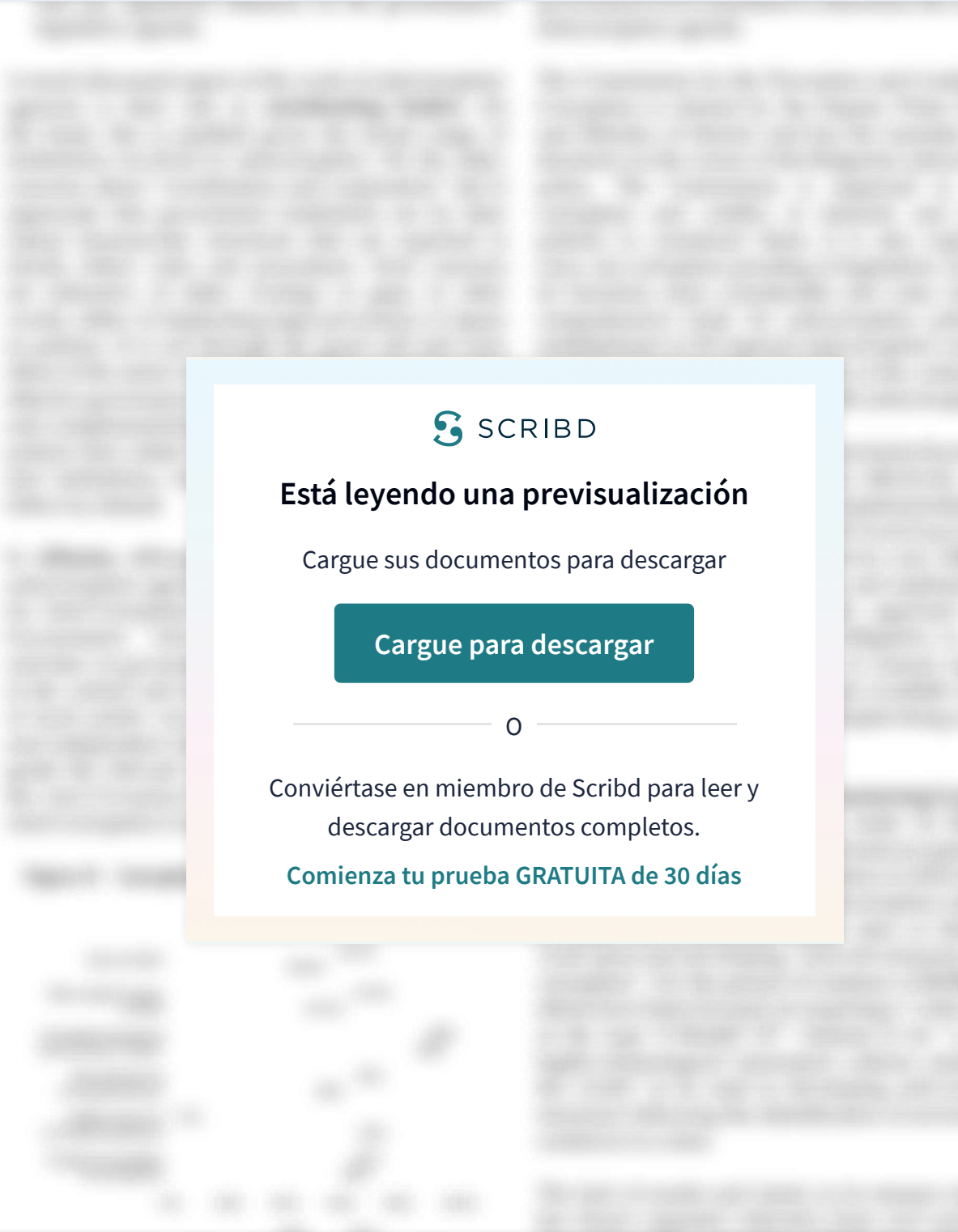
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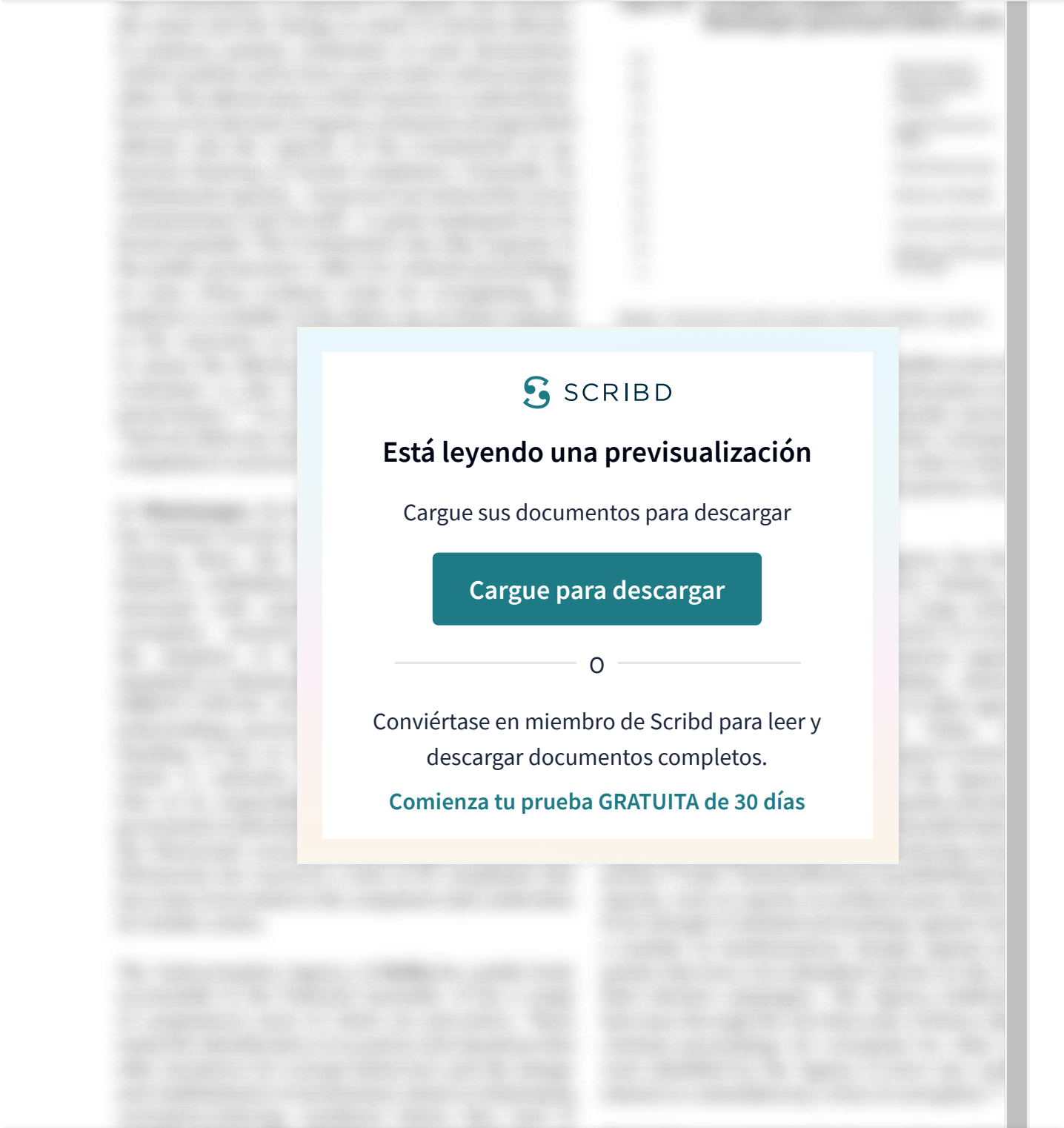
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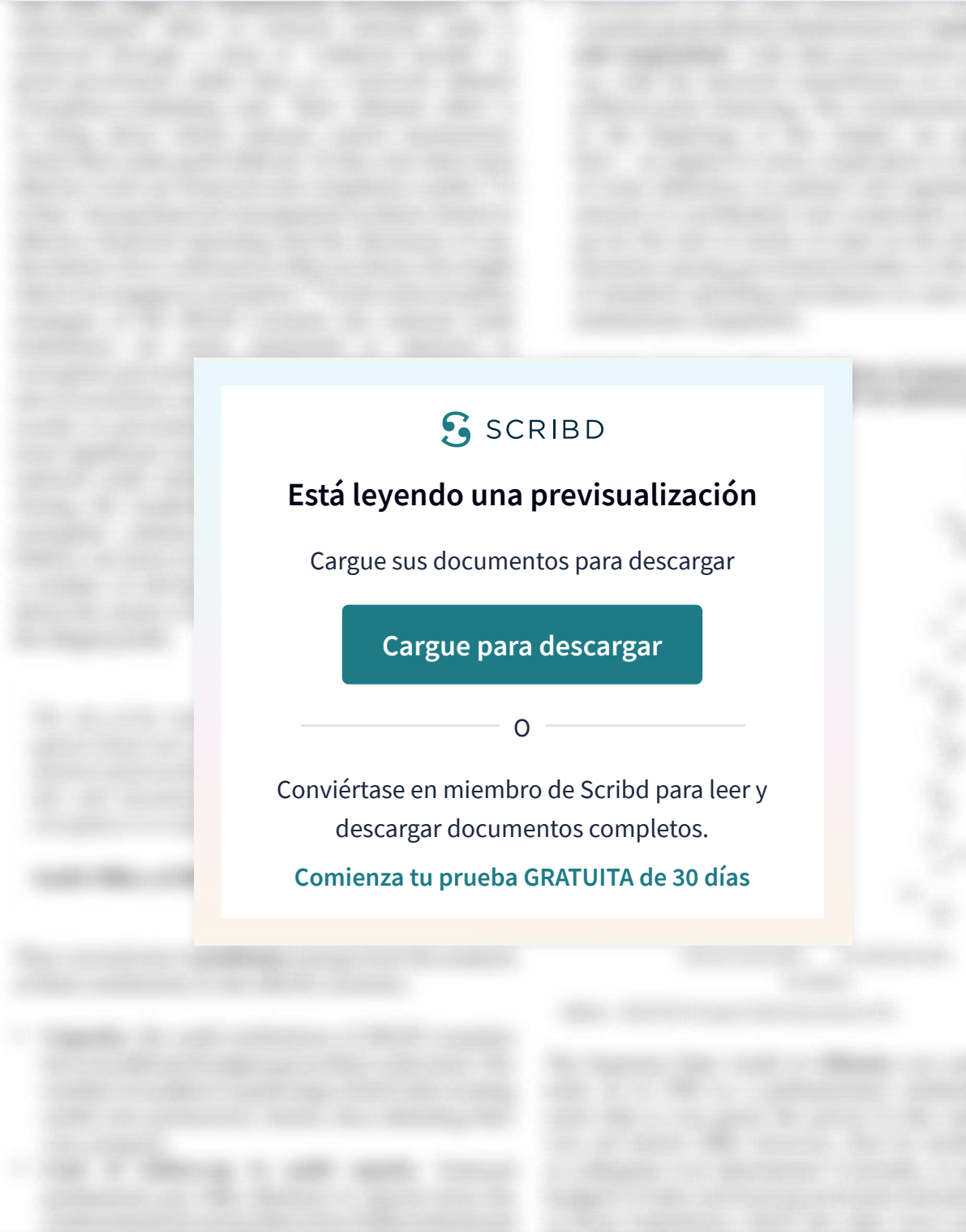
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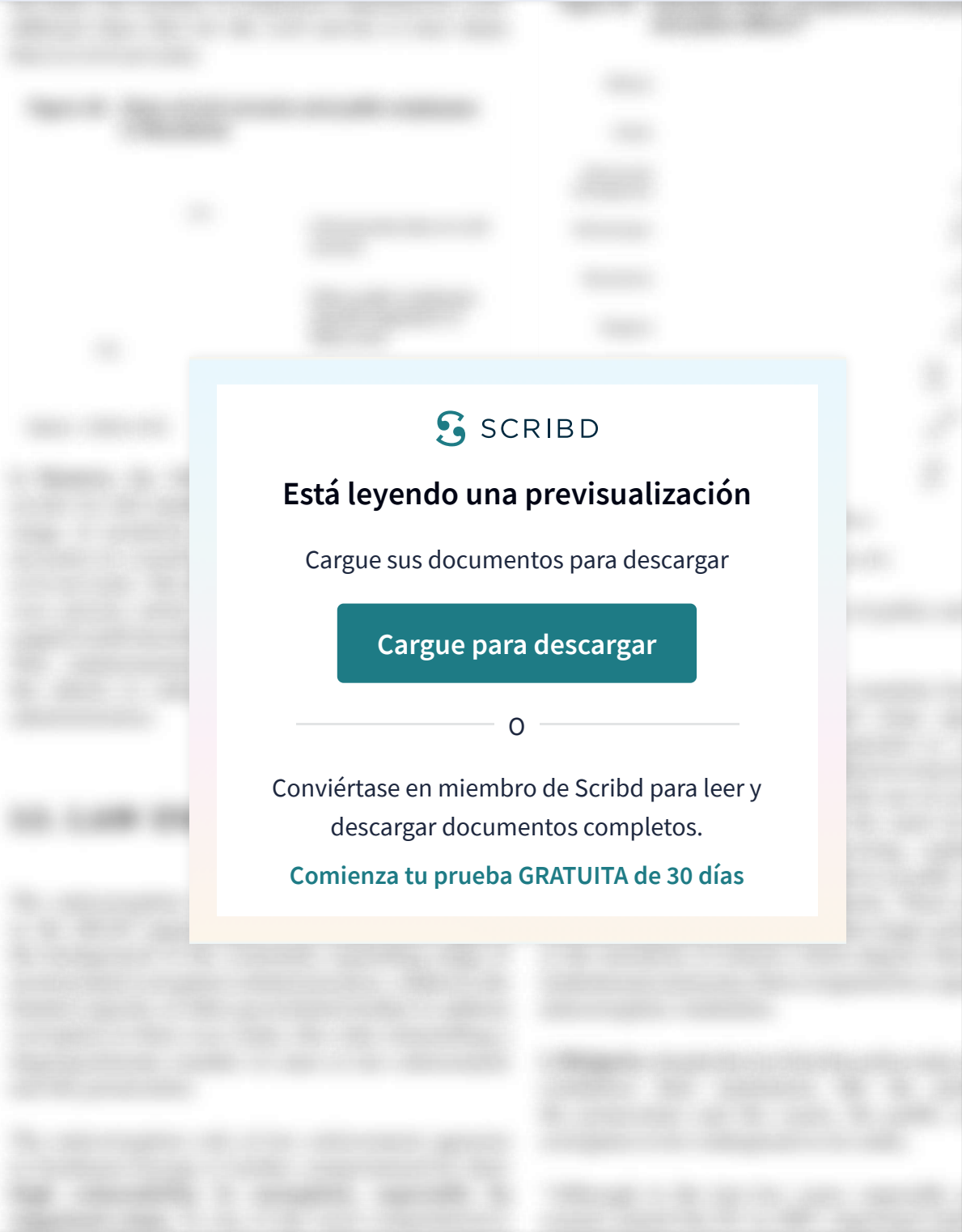
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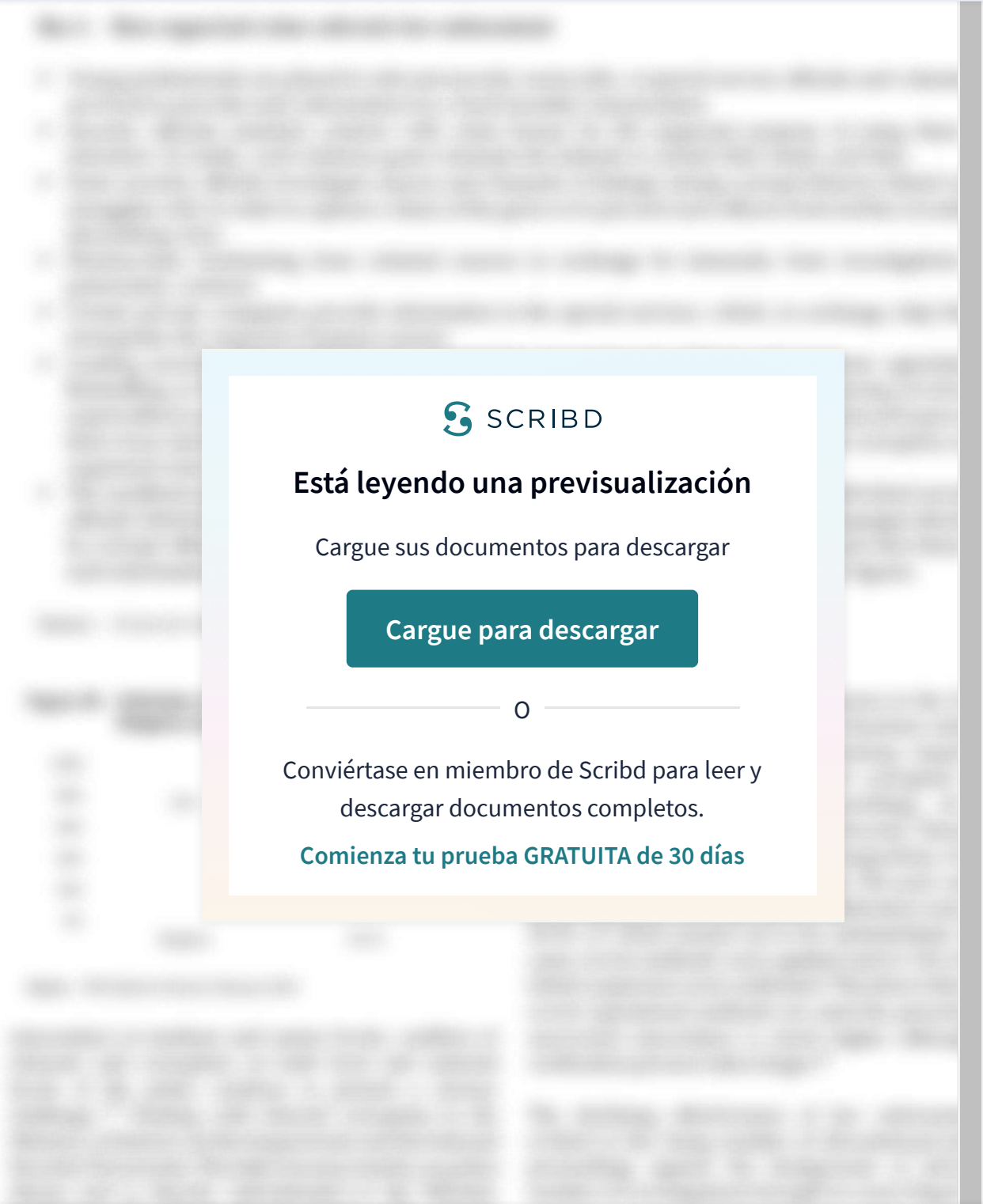
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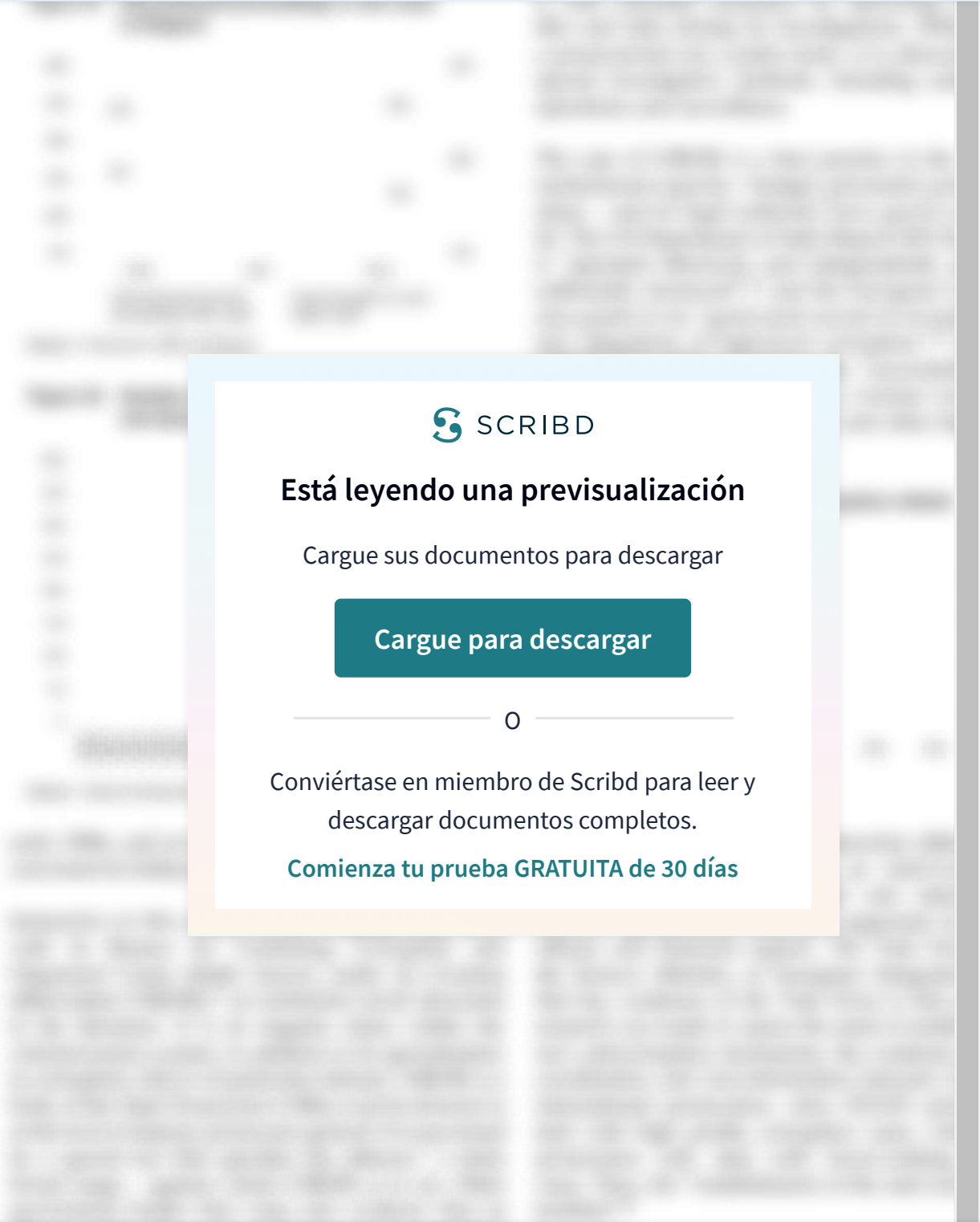
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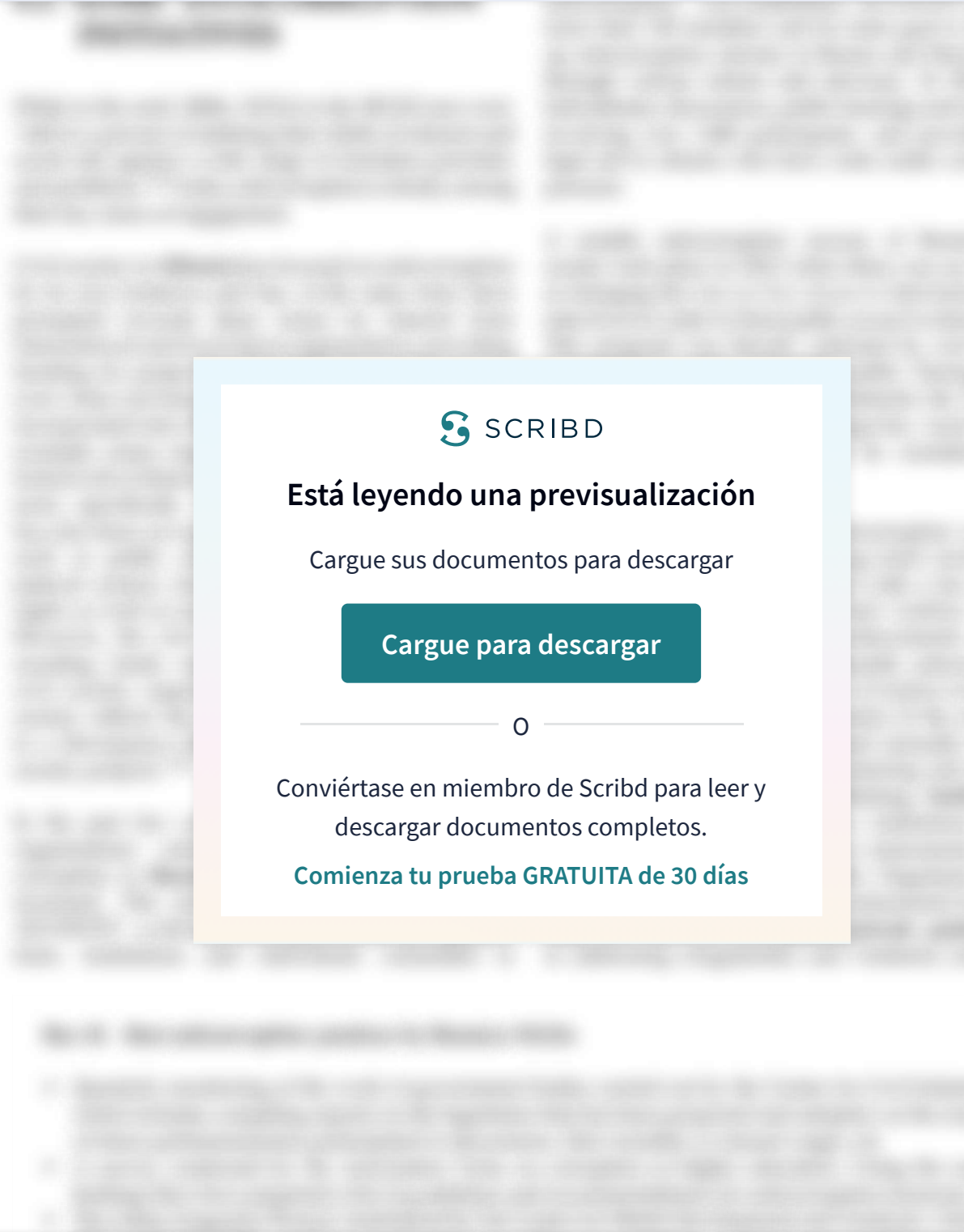
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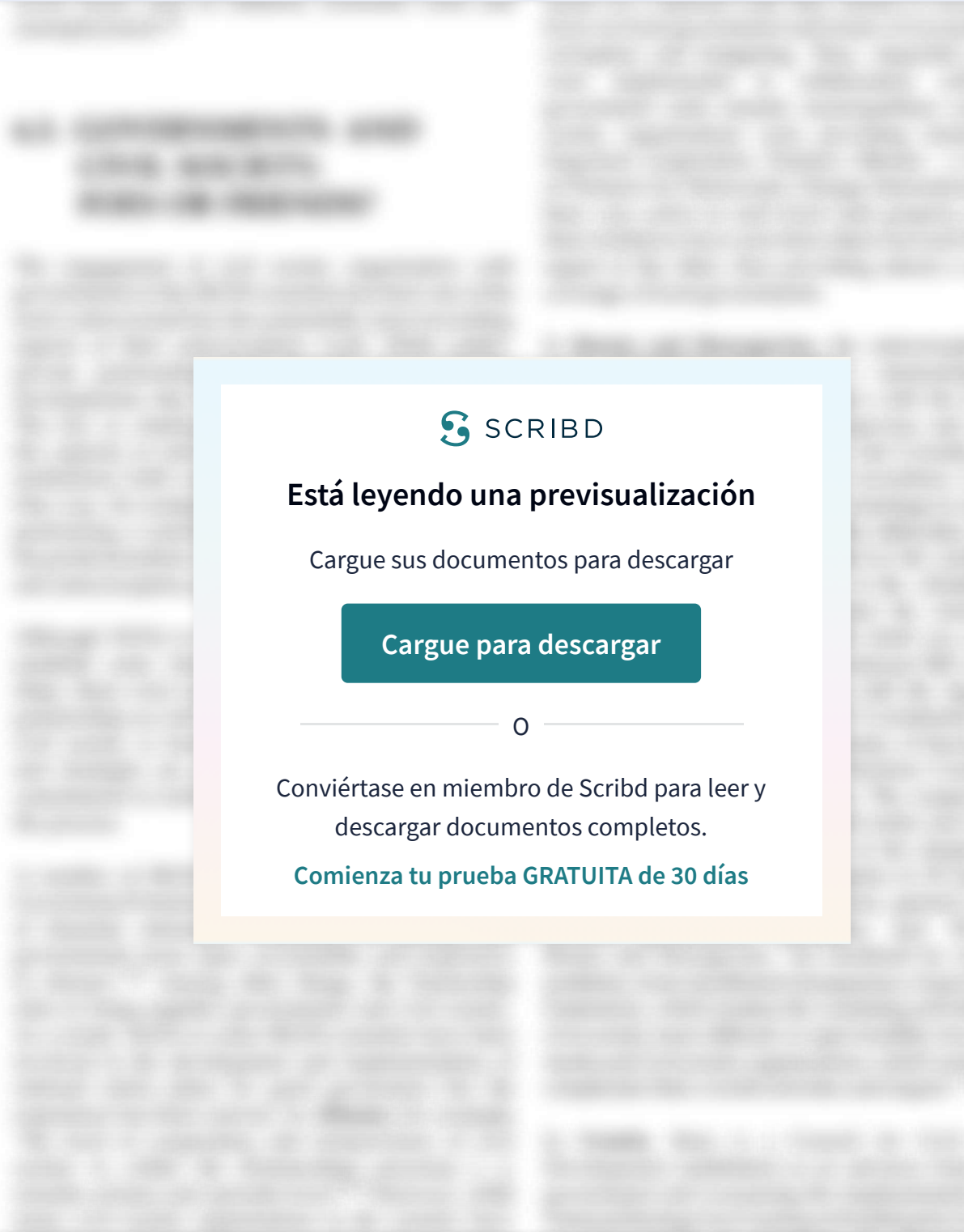
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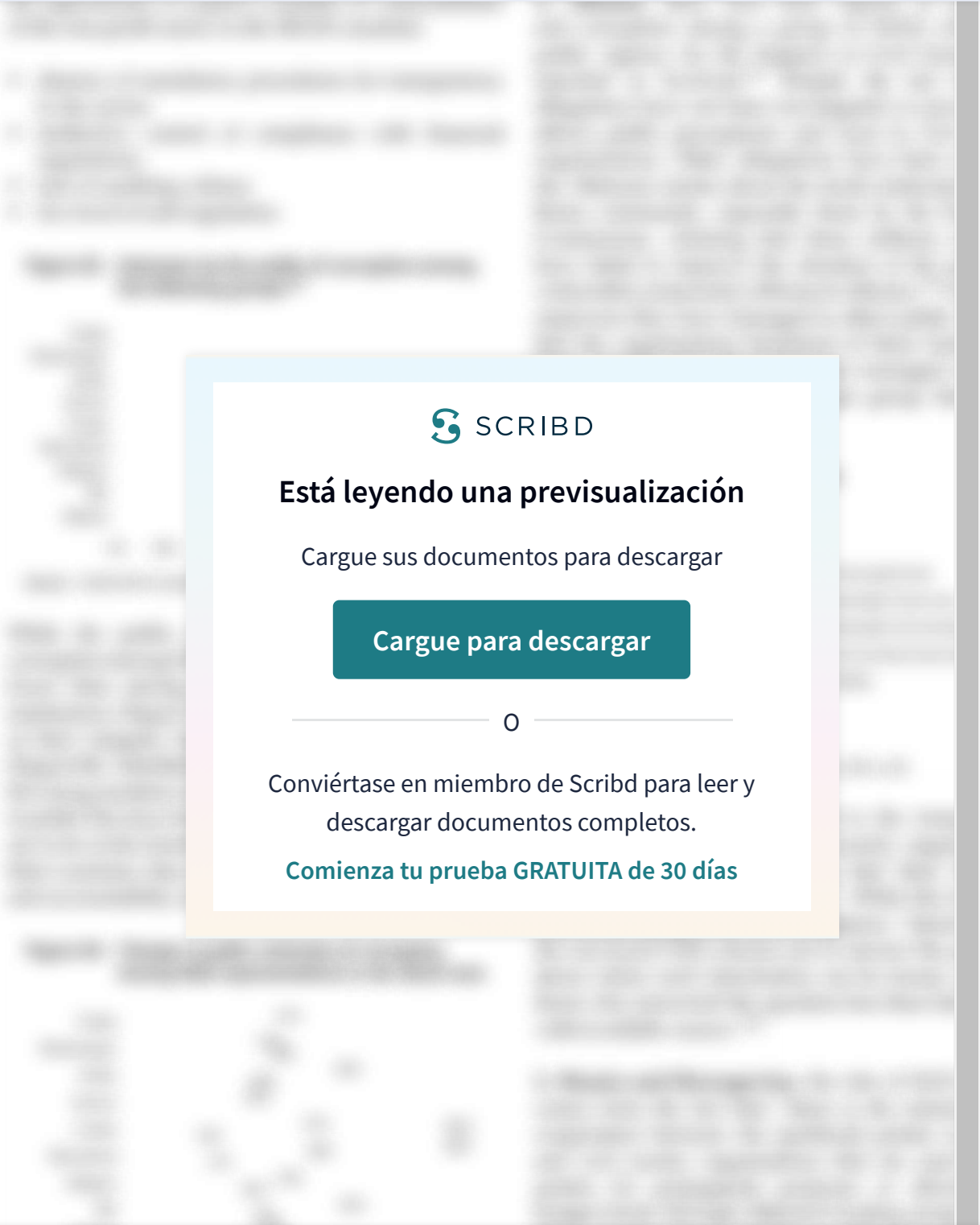
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Eurobarometra u Evropskoj Uniji.<sup>2</sup> To pokazuje da je administrativna korupcija **masovna pojava** i ne može se ograničiti na pojedinačne slučajeve korumpiranih službenika.

Značajne razlike između zemalja koje imaju zajedničku istorijsku pozadinu pokazuju da različite putanje društvenog, ekonomskog i institucionalnog razvoja donose i različite rezultate. Sve u svemu, osim Bugarske, promjene u odnosu na prethodnu rundu SELDI CMS analize (2001. i 2002.god.) su pozitivne za sve zemlje; napredak je, međutim, bio spor i neujednačen.

### Koruptivni pritisak i učešće u korupciji



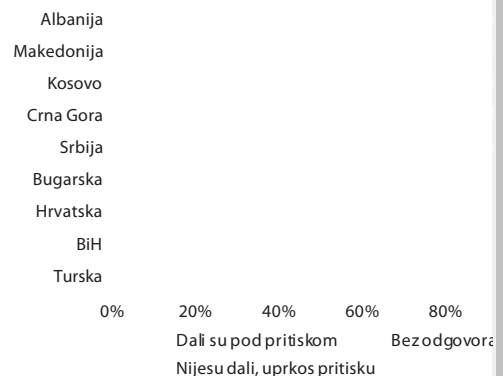
Izvor: SELDI/CSD Sistem monitoringa korupcije, 2014.

Koruptivni pritisak od strane javnih službenika je glavni faktor koji statistički utiče na nivo učešća u korupciji. Većinu zemalja u kojima su i učešće i pritisak visoki karakteriše i niska **otpornost** na koruptivni pritisak (većina ispitanika od kojih je tražen mito su i dali mito). Iako se otpornost ne može smatrati glavnim faktorom za smanjenje korupcije, ona odražava preovladavajuće društvene stavove po pitanju integriteta i u velikoj je mjeri rezultat napora civilnog društva i vlasti u odnosu na unapređenje antikorupcijske svijesti. U tom smislu, uloga civilnog društva je od ključnog značaja jer je ono u poziciji da ocjenjuje rezultate i predvodi pritisak javnosti ka promjenama.

<sup>2</sup> Indikatori za iskustvo sa korupcijom koji se koriste u istraživanjima Eurobarometra imaju malo drugačiji sadržaj, jer se odnose na direktna iskustva i slučajeve u kojima su ispitanici bili svjedoci slučajeva mita. Za više detalja, molimo pogledajte (TNS Opinion & Social, februar 2014.).

### Otpornost na koruptivni pritisak

(među onima na koje je vršen pritisak da daju mito)



Izvor: SELDI/CSD Sistem monitoringa korupcije, 2014.

### Antikorupcijska politika i zakonodavstvo

Zemlje članice SELDI mreže su generalno usvojile neku vrstu strateškog pristupa, i što je još važnije logiku i pristup, međurazličitim zakonodavstvima. Kvalitet zakonodavstva, međutim, dalje predstavlja problem. Česte i nedosljedne promjene zakona dovele su do proceduralnih i zamršene i kontradiktornih tumačenja od strane sudova.

Sve zemlje su usvojile neku vrstu strateškog pristupa koji sadrži njihov sveukupni pristup protiv korupcije. Iako postoje određene razlike između zemljama, implementaciju ovih dokumenata u praksi sputava nedovoljno resursa i predanosti na državnom nivou. Dodatni problem u cijelom je bila izrada strategija koje bi se bavile svim aspektima korupcije. Umjesto da postave prioritete, dokumenti su postali sveobuhvatni; u smislu protiv korupcije, strategije je poprimila značajnu jednostavno iscrpljujućeg.

Što se tiče političkih prioriteta, došlo je do dvije promjene u pristupu borbi protiv korupcije, po prvi put pažnje sa sitne korupcije (među saobraćajnom policijom ili doktorima u javnom sektoru) na veliku korupciju (među članovima parlamenta ili ministrima) i kriminalnog šireg niza zloupotreba javne funkcije. Međutim, ostvarivanje etičkog i smisluključnog javnog djelovanja u najboljem slučaju ostaje ograničeno. Ključni i najvažniji antikorupcijsku politiku u regionu je da se implementacioni jaz i održi korak sa promjenama.



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manifestacijama i oblicima korupcije, istovremeno održavajući regulatornu stabilnost i izbjegavajući preplavlivanje pravosuđa čestim promjenama.

Nalazi SELDI monitoringa naglašavaju **značaj javne podrške za uspjeh antikorupcijske politike**. Povjerenje javnosti u vladu i djelotvornost politike spojeni su u nekoj vrsti moralnog kruga: veći udio ljudi koji su optimistični po pitanju vjerovatnoće uspjeha u borbi protiv korupcije je u korelaciji sa nižim nivoima korupcije. S druge strane, preovladavajuća korupcija ide ruku pod ruku s povećanim pesimizmom o izgledima u borbi protiv korupcije.

#### Izvodljivost odgovora javnih politika na korupciju: kako to javnost procjenjuje



Izvor: SELDI/CSD Sistem monitoringa korupcije, 2014.

### Institucionalna praksa i sprovođenje zakona

U Jugoistočnoj Evropi, raniji naglasak na usaglašavanje nacionalnog zakonodavstva s međunarodnim standardima u borbi protiv korupcije je postepeno prelazio u fokus na njegovo sprovođenje pod sve većim pritiskom Evropske Unije i lokalnog civilnog društva.

Nedostatak koji je zajednički za sve zemlje članice SELDI mreže je ugrožena autonomija različitih organa za nadzor i sprovođenje zakona. Određeni stepen uplitanja od strane izabranih političara – članova parlamenta ili vladinih ministara – u rad javne administracije je tipičan. Pored toga, nijedna od zemalja članica SELDI mreže nema mehanizam upravljanja pritužbama u javnoj upravi koji adekvatno funkcioniše. Većina zemalja je osnovala organ za borbu protiv korupcije od kojeg se očekuje da prima pritužbe javnosti. Još jedan

nedostatak, koji je zajednički, je nedostatak pouzdanosti i javno dostupnih podataka o radu vladinih institucija, a naročito u odnosu na borbu protiv korupcije. Podaci o korupciji se ili ne prikupljaju, ili nisu dostupni javnosti, ili se prikupljaju tako nasumično da onemogućavaju monitoring i analizu.

Jedno od ključnih pitanja vezanih za model sprovođenja nacionalnih antikorupcijskih institucija u regionu je **kako kombinovati preventivnu i represivnu funkciju**. U pravilu, zemlje članice SELDI mreže su pokušale da se njihove institucije za borbu protiv korupcije bave i jednom i drugom funkcijom, iako je represija daleko manji aspekt njihovog rada. Većina zadataka ovih organa odnosi se na nadzor i kontrole, obično nacionalnih strategija za borbu protiv korupcije, a malo je dokaza da su im bile kakav značajan uticaj na zakonodavnu agenciju vlade. Uspostavljanje i funkcionisanje takvih institucija je puno teže i broje poteškoće:

- Iako je korupcija postavljena visoko na vladinoj agendi, nije bilo moguće stvoriti institucije vanrednim ovlašćenjima koje bi na neki način uticale na uspostavljanje ravnoteže moći. To je kompromis je da se ove agencije pripoje izvanrednim vlastima i da im se daju nadzorna ovlašćenja koje su međutim, obično ograničena na slanje zahtjeva drugim vladinim agencijama da izvještavaju o implementaciji antikorupcijskih zadataka koji su dodijeljeni.
- Takvi organi morali bi biti oprezni da ne dobiju ovlašćenja koja su već dodijeljena drugim nadzornim organima (npr. nacionalnih institucija za reviziju organa za sprovođenje zakona).
- Većina ih je ograničenih institucionalnih kapaciteta, budžet, osoblje – uprkos suprotno deklariranim namjerama.

Što se tiče **zakonodavstva**, parlamenti u regionu visoko rangirani po pitanju povjerenja javnosti, ali nezavistan položaj nije bez razloga. Kodeksi etički ponašanja su rijetki i ne sprovode se; propisi o lobiranju su još rjeđi; tek nedavno su počele uvoditi procedure za skidanje imuniteta zbog krivih postupaka, premda bojažljivo; gdje god postoji organizacija za borbu protiv korupcije u parlamentu, ona obično nema neki izvršni organ, umjesto da se bavi korupcijom svojim članovima. Pitanje od posebne brige u zemljama članicama SELDI mreže je finansiranje političkih i izbornih kampanja. Većina zemalja je implemenirala preporuke GRECO-a o finansiranju partija, ali postoje problemi – kao što su anonimne donacije, kupovina



glasova (ili podmićivanje birača), nedovoljni kapaciteti za reviziju finansija partija i ograničena ovlašćenja za uvođenje sankcija, itd. – i dalje postoje.

Postojeće stanje **državne uprave** odgovara tranzicijskoj prirodi zemalja Jugoistočne Evrope i nedostatku adekvatne zakonske i institucionalne tradicije kao i hroničnom nedostatku sredstava. Bez obzira na određene razlike među zemljama, ono što je zajedničko za većinu je potreba da se unaprijedi menadžerski i organizacijski razvoj u okviru državne uprave. Kultura „kontrole“ administracije, umjesto upravljanja radom administracije kroz motivaciju, je ono što opstruira unaprijeđenje profesionalnosti i smanjenje korupcije. Jedan od glavnih zaključaka u izvještaju je **međusobno jačanje nadležnosti i integriteta**. Obično, kad god se osporavaju antikorupcijske kvalifikacije određene vladine institucije, utvrđi se da postoji nedostatak institucionalnih kapaciteta. Nasuprot tome, svaki napredak u profesionalnosti vodi do unapređenja integriteta. Stoga, izazov u regionu je kako transparentnost i odgovornost učiniti bitnim karakteristikama državne službe, a istovremeno povećati profesionalizam. Vrlo često, loše upravljanje, nejasni kriterijumi i neadekvatna podjela ovlašćenja i odgovornosti je ono što ometa reforme i podriva autoritet države.

Antikorupcijsku ulogu **organa za sprovođenje zakona** u regionu treba shvatiti u kontekstu stalnog proširivanja niza inkriminišućih koruptivnih praksi čime se rizikuje kanalisanje neproporcionalnog broja slučajeva prema policiji i tužilaštvu. Antikorupcijska uloga organa za sprovođenje zakona u Jugoistočnoj Evropi dodatno je ugrožena njihovom visokom osjetljivošću na korupciju, a posebno organizovanim kriminalom. Policijske snage u većini zemalja članica SELDI mreže imaju jedinice specijalizovane za borbu protiv djelovanja organizovanog kriminala; od ovih jedinica se takođe očekuje da rade na borbi protiv korupcije. Smještanje ove dvije funkcije u jedan organ uglavnom je opravdano time da se organizovani kriminal koristi korupcijom, ali i potrebom za specijalnim istražnim metodama u otkrivanju sofisticiranih koruptivnih šema – ekspertiza koja je obično povjerena odjeljenjima za borbu protiv organizovanog kriminala. Te jedinice su, međutim, obično smještene unutar većih policijskih snaga ili ministarstava unutrašnjih poslova, što ih lišava institucionalne autonomije koja je potrebna specijalizovanim institucijama za borbu protiv korupcije.

## Pravosuđe u borbi protiv korupcije

U Jugoistočnoj Evropi, snažan fokus na obezbjeđivanje nezavisnosti pravosuđa nije ujednačen sa snažnim zahtjevima po pitanju odgovorne i adekvatne kontrole i ravnoteže autonomija. Pravo je ispala iz kontrole, i pretvorila se u korporaciju sa svim povezanim rizicima od korupcije. Pritom je naglašavanje formalne izborne nezavisnosti je tipičan primjer lijeka koji je postao bolest – da obezbijedi ravnotežu izvršnoj vlasti, automatski je uvijek povećala klijentelističke odnose između posebnih interesa. Danas je pravosuđe u Jugoistočnoj Evropi efikasno zarobljeno kao i druge građanske institucije. Usled nedostatka javnog nadzora i političkih pritisaka koji su doveli do takvih aranžmana, danas je provjera lobiranja od strane sudija.

Ne iznenađuje činjenica da pravosuđe ne uživa visoko poštovanje od strane javnosti. *Sistem za monitoring korupcije SELDI mreže* nalazi da se sudije sastoje između najkorumpiranijim javnim funkcionerima u regionu; nepostojanje transparentnosti i odgovornosti je nesumnjivo značajan faktor u takvim problemima. U svim zemljama članicama SELDI mreže, nedostatak do opipljivog **pogoršanja procjene širenja korupcije među sudijama** od 2001.godine.

Kapacitet pravosuđa u regionu da sprovede antikorupcijske zakone, naročito vezano za pravosuđe i korupciju, narušen je nizom problema koji su imali svoj uticaj kumulativno:

- Ustavna pitanja, prije svega u odnosu na obezbjeđivanje ravnoteže između nezavisnosti i odgovornosti pravosuđa;
- Kompleksnost krivičnog gonjenja počinilaca krivičnih djela korupcije, naročito na po nižim nivoima;
- Ukupno nedovoljni kapaciteti i povezana niska profesionalizma, preopterećenosti i rezultirajući neriješeni predmeti, upravo predmetima, objekti, itd.

Važan nalaz ove runde SELDI monitoringa je da je značajan za ulogu pravosuđa u borbi protiv korupcije je **nedostatak mehanizama povratnih informacija** koji omogućavaju javnosti i kreatorima politika procijene i integritet pravosuđa i njegovu efikasnost primjeni krivičnih antikorupcijskih zakona. Ni u jednoj od zemalja Jugoistočne Evrope ne postoji sistematski i sveobuhvatan mehanizam za prikupljanje i obradu i stvaranje javno dostupnih statističkih podataka.







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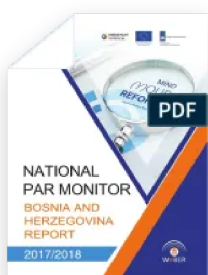
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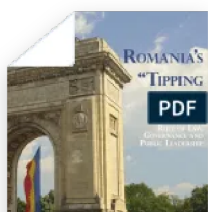
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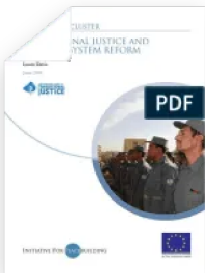
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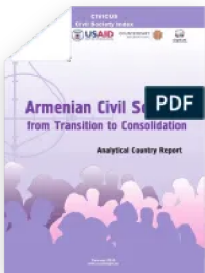
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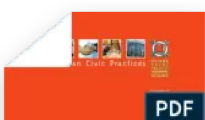
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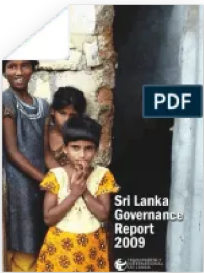
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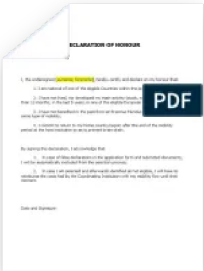
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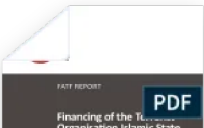
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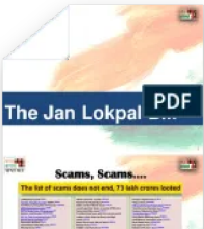
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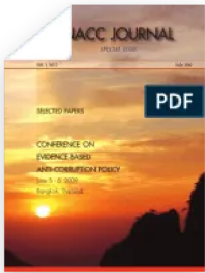


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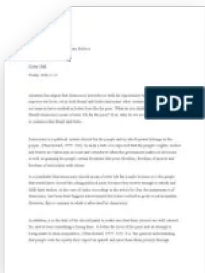
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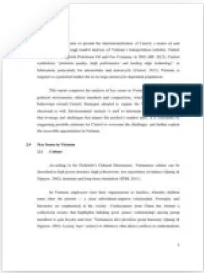
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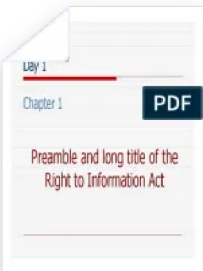
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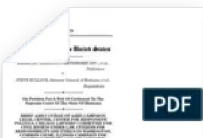
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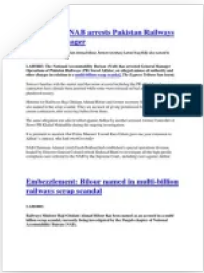
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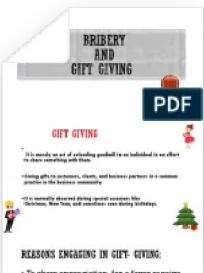
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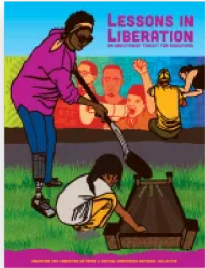
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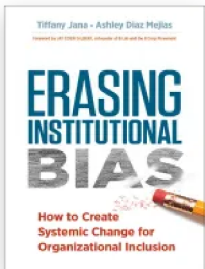
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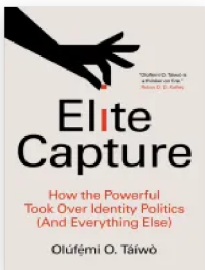
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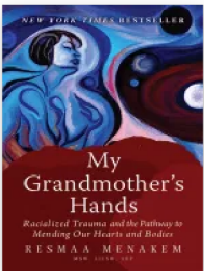
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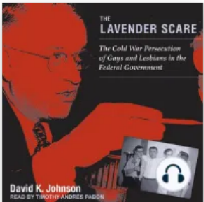
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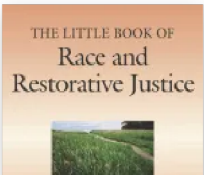
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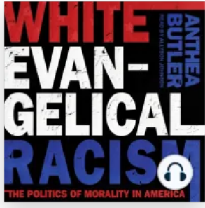


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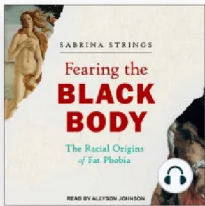
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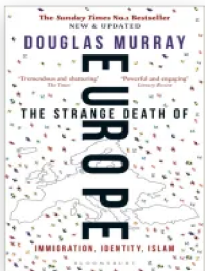
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